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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION,

MDL No. 3047

Case No. 4:22-md-03047-YGR (PHK)

This Document Relates To:

ALL ACTIONS

**JOINT STATUS REPORT ON
DISCOVERY FOR JANUARY 25, 2024,
DISCOVERY MANAGEMENT
CONFERENCE**

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

Pursuant to Discovery Management Order No. 1 (ECF No. 503), the Parties submit this Joint Status Report in advance of the January 25, 2024, Discovery Management Conference (“DMC”).

I. Status of Discovery

As of the filing of this statement, the Personal Injury and Local Government Entity and School District (“PI/SD”) Plaintiffs have served 175 requests for production (“RFPs”) on Meta, 197 RFPs on TikTok, 116 RFPs on Google and YouTube, and 121 RFPs on Snap. Of those, 108 requests are identical and were served on all Defendants, with responses and objections currently due in late February. The PI/SD Plaintiffs have categorized those requests into the following issues: organization and finance, features and warnings, health and safety, user demographics and targeting, marketing and lobbying, and student safety.

1 TikTok served written responses and objections to TikTok-specific “go get ‘em” requests
 2 on January 8, 2024,¹ and will serve written response to jurisdictional requests directed at
 3 ByteDance Ltd. and TikTok Ltd. on February 10, 2024. Meta will serve written responses and
 4 objections to Meta-specific “go get ‘em” requests on February 5, 2024.

5 As anticipated at the prior hearing, the Personal Injury Plaintiffs also propounded their
 6 Rule 30(b)(6) Notice of Deposition to Defendant Snap with respect to its deletion of certain user
 7 accounts. The deposition is scheduled to take place on January 31, 2024, as to certain of the
 8 topics, and on February 29, 2024, as to others.

9 **II. Proposed Discovery Plans**

10 Pursuant to Discovery Management Order No. 1, at 2 (ECF No. 503), the Parties submit
 11 their competing discovery plans and schedules for this Court’s consideration, attached hereto as
 12 **Exhibit A.** The Parties will be prepared to discuss at the DMC.

13 **III. Ripe Discovery Disputes**

14 **A. Protective Order**

15 As directed by this Court at the December DMC (*see* ECF No. 503, at 3), on December
 16 18, 2023, Plaintiffs resubmitted their objection to Paragraph 7.6 regarding the early disclosure of
 17 experts who receive Protected Material designated as “Highly Confidential.” *See* ECF No. 501
 18 (Motion to Modify Protective Order and related briefing); 502 (State Attorneys’ General Position
 19 Statement); 506 (Meta’s response to State Attorneys General). The Court previously heard
 20 argument on the issue at the December 14, 2023, DMC.

21 **B. ESI Order**

22 Following further meet and confers, as directed by this Court (ECF No. 503, at 4), the
 23 Parties submitted a joint chart outlining the Parties’ remaining disputes with respect to a proposed
 24 ESI Protocol. *See* ECF No. 534.1. The Parties will be prepared to discuss at the DMC.

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 26
 27

¹ The PI/SD Plaintiffs and TikTok have begun meet and confer over TikTok’s responses and
 28 objections to Plaintiffs’ first set of RFPs and will submit unresolved disputes pursuant Section H
 of this Court’s Discovery Standing Order.

1 **IV. Ongoing Discovery Meet and Confers**

2 **A. RFPs and ESI Protocol**

3 **Parties' Position:**

4 As noted above, the PI/SD Plaintiffs have served their initial set of RFPs. They have
 5 already begun to meet and confer on TikTok's responses and objections to resolve disputes and
 6 expect to do so with the other Defendants once responses and objections are served. Relatedly,
 7 the Parties will be discussing Defendants' search methodologies to be used to respond to the
 8 RFPs, including identification of custodians, non-custodial data sources, and search terms, as
 9 appropriate. The Parties agree these will be iterative, ongoing discussions in response to
 10 Plaintiffs' discovery requests.

11 **Plaintiffs' Further Position:**

12 Other than the 108 common RFPs mentioned above, the PI/SD Plaintiffs' RFPs to date
 13 have largely been "go get 'em" requests for specific documents that do not require a search
 14 methodology, such as search terms. Defendants should be able to quickly locate the document
 15 and produced it. Production, moreover, should not be delayed (as it is already with TikTok)
 16 because this Court has not ruled on the narrow pending dispute regarding experts of the already-
 17 entered Protective Order (ECF No. 290) or the pending disputes in the ESI protocol, none of
 18 which prevent production of specific documents. Indeed, Meta, TikTok, and Snap have already
 19 made productions to Plaintiffs despite these pending disputes.

20 **Defendants' Further Position:**

21 As noted above, the PI/SD Plaintiffs have served a total of 609 RFPs on all Defendants,
 22 including 175 RFPs on Meta, 197 RFPs on TikTok, 116 RFPs on Google and YouTube, and 121
 23 RFPs on Snap. The PI/SD Plaintiffs' 108 common RFPs will require extensive search term and
 24 custodial negotiations, and many of the other supposed "go get 'em" requests that are Defendant-
 25 specific seek "all documents" and "all communications" related to various documents, which will
 26 also require extensive ESI negotiations and time before productions can be made. Defendants are
 27 in the process of preparing responses and objections to these requests and will be prepared to
 28 begin making initial productions (subject to those responses and objections) following entry of

1 the pending Protective Order and ESI Order.

2 **B. Personal Injury Plaintiff Fact Sheet and Related Orders and Forms**

3 On December 14, 2023, Judge Kuhl entered a Plaintiff Fact Sheet (“PFS”) and PFS
4 Implementation Order, along with a related “User Account Information Order” and associated
5 forms. The Parties anticipate soon seeking entry of these orders and forms in this proceeding,
6 conformed as appropriate.

7 **C. Local Government Entity and School District Plaintiff Fact Sheet and**
8 **Personal Injury Defendant Fact Sheet**

9 The PI/SD Plaintiffs and Defendants continue to meet and confer regarding (1) a PFS to
10 be used in the Local Government Entity and School District actions, and (2) a Defendant Fact
11 Sheet to be used in the Personal Injury actions, which will be submitted to Judge Kuhl in the
12 JCCP for resolution in the first instances. Once entered by Judge Kuhl, the PI/SD Plaintiffs and
13 Defendants intend to submit these orders (conformed as appropriate for the MDL) to the Court.

14 **D. Privilege Log**

15 On January 5, 2024, Plaintiffs sent to Defendants an initial draft of a privilege log
16 protocol. The Parties are in the process of meeting and conferring on the draft.

17 **E. Law Enforcement Sharing**

18 **States’ Position:**

19 The Personal Injury Plaintiffs and Defendants have been litigating various contested
20 provisions of the Protective Order since its entry in March 2023. *See, e.g. Dkt. No. 303*
21 (Plaintiffs’ Motion for Relief from Nondispositive Pretrial Order of Magistrate Judge Regarding
22 Expert Disclosure; Dkt. No. 318 (Defendants’ Opposition to Same); Dkt. No. 321 (Plaintiffs’
23 Reply in Support of Same)). This briefing occurred before the State Plaintiffs entered this case.
24 The State Plaintiffs first raised the issue of law enforcement sharing with Defendants via email on
25 November 29, 2023. The State Plaintiffs then attempted to discuss this issue with Defendants
26 during a conferral call on November 30, 2023. At that time, Defendants declined to discuss the
27 issue and asked the State Plaintiffs to provide supporting authority for the law enforcement
28 sharing provision. In hopes that this issue could be resolved with Defendants and awaiting a

1 more fulsome substantive conferral, the State Plaintiffs did not raise this issue in the limited
 2 briefing addressing expert sharing provisions and ESI protocol submitted to the Court before its
 3 December Discovery Management conference. The State Plaintiffs renewed this issue by sending
 4 Defendants supporting authority on January 8, 2024, again requesting the opportunity to meet and
 5 confer on the issue. The State Plaintiffs received no response, so the State Plaintiffs again emailed
 6 the Defendants on January 10, 2024, about the law enforcement sharing provision. The
 7 Defendants indicated they were not available to meet until January 16, 2024. The parties then
 8 met and conferred on January 17, 2024. The State Plaintiffs also provided the parties with
 9 proposed language for a law enforcement sharing provision on January 17, 2024.

10 Up until January 18, 2024, Defendants advised the State Plaintiffs that the issue was not
 11 ripe. Only in the afternoon of January 19, 2024 did Defendants provide the State Plaintiffs with
 12 their position that the States Plaintiffs had waived the law enforcement sharing provision. The
 13 State Plaintiffs also dispute Defendants' description of the State Plaintiffs' proposed law
 14 enforcement sharing provision. In light of Defendants' position, the State Plaintiffs believe that
 15 legal arguments about this issue are best addressed in letter briefing. For those reasons, the State
 16 Plaintiffs respectfully request that the Court set page limits and a briefing schedule on this issue.

17 **Defendants' Position:**

18 Notwithstanding that the State AGs have already submitted briefing to this Court on their
 19 protective order disputes, participated in oral argument on the protective order, and submitted
 20 post-argument supplemental briefing, they now seek to revisit the restriction on use of documents
 21 produced in this proceeding to permit them to unilaterally share those documents with any law
 22 enforcement officer anywhere in the world, without restriction. Plaintiffs had many opportunities
 23 to raise this issue with the Court, but waived their opportunity. Indeed, on December 13, 2024,
 24 the State AGs prepared a "Position Statement Regarding Protective Order" (Dkt. 478), which
 25 asked the Court to "remove the expert disclosure obligation imposed by Section 7.6," but did not
 26 seek any law enforcement sharing provision.² At the December 14 hearing before this Court, the

27 ² The State AGs had previously informed Defendants of the purported need for an expert
 28 disclosure provision. On November 30, Defendants requested the State's authority for such a
 provision. No such authority was provided until January 8.

1 State AGs then framed the question at the argument as “whether the protective order previously
 2 entered by Magistrate Judge Hixson should be modified.” Yet the only modification sought was
 3 to the expert disclosure provision. Following that hearing, on December 18, the State AGs filed
 4 their supplemental brief, which again did not seek the ability to share documents with law
 5 enforcement (Dkt. 502). By repeatedly failing to raise this issue at the appropriate time, the issue
 6 has been waived.

7 Even on the merits, their proposal should be rejected. The State AGs seek an expansive
 8 blanket law enforcement sharing provision that would permit them to unilaterally deliver
 9 Defendants’ confidential material to law enforcement agencies anywhere in the world for
 10 undefined “law enforcement purposes.” This is not a criminal case, and the State AGs have failed
 11 to explain how the unlimited transfer of Defendants’ documents (including potentially Defendants
 12 the State AGs have not named in their Complaint) to law enforcement entities across the globe
 13 would advance any legitimate local law enforcement need, much less the needs of this civil
 14 litigation. What’s more, during the parties’ recent conferral on this issue, the State AGs
 15 confirmed they would use this provision to share all Defendant discovery with the State AGs
 16 outside the MDL (including with the eleven State AGs that decided to sue Meta in state and
 17 federal courts across the country rather than joining the other State AGs in this MDL). The AGs’
 18 real goal is transparent: to obtain one-sided coordination that lets them share documents
 19 produced in the MDL with AGs suing Meta in state court, with no corresponding limits on the
 20 ability of the AGs suing in state court to seek even more discovery elsewhere (and presumably
 21 share that discovery with the AGs in the MDL). Any provisions governing discovery
 22 coordination should be addressed holistically, not through the guise of a protective order.

23 DATED: January 19, 2024

24 Respectfully submitted,

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ATTESTATION

I, Lexi J. Hzam, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

DATED: January 19, 2024

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